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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN JOSE DIVISION**  
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7 ANTHONY MERLO,  
8 Plaintiff,  
9 v.  
10 CITY OF PALO ALTO,  
11 Defendant.

Case No. [18-cv-03943-BLF](#)

**ORDER MOOTING DEFENDANT'S  
MOTION TO DISMISS AND  
VACATING OCTOBER 25, 2018  
HEARING**

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13 On August 24, 2018, Defendant City of Palo Alto ("Defendant") filed a Motion to Dismiss  
14 Plaintiff's First Amended Complaint. ECF 19. On August 31, 2018, this Court granted Plaintiff's  
15 request to amend the Complaint, having liberally construed Plaintiff's request, and gave Plaintiff  
16 until September 21, 2018 to amend. ECF 23. On September 6, 2018, Plaintiff filed his Second  
17 Amended Complaint. ECF 24. As a result of Plaintiff's Second Amended Complaint,  
18 Defendant's pending Motion to Dismiss is MOOTED and the hearing on Defendant's Motion to  
19 Dismiss set for October 25, 2018 is hereby VACATED. Plaintiff is informed that he may not  
20 amend his Complaint again without further leave of Court.

21 **IT IS SO ORDERED.**  
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23 Dated: September 7, 2018

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25 BETH LABSON FREEMAN  
26 United States District Judge  
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